

**REMARKS**

Claims 1-14 are all the claims pending in the application.

The Examiner has rejected claims 1-3 and 8-10 under 35 U.S.C. § 102(b) as being anticipated by Lin et al. (U.S. Patent No. 6,366,791). In addition, the Examiner has rejected claims 4-7 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Lin et al. in view of Yoshino et al. Applicant traverses these rejections because the cited prior art fails to disclose or suggest all of the claim limitations. In the previous Response filed on February 22, 2005, the Applicant argued that, unlike the prior art cited by the Examiner, both independent claims, 1 and 8, include downloading melody data that contains tone information.

Claim 1:

means for fetching *melody data* from a web-based server apparatus by using said browser function; and

tone setting means for setting ringing tones based on *tone information contained in said melody data*.

Claim 8:

receiving said desired *melody data* from said server equipment;

storing said received desired melody data;

judging whether said stored *melody data contains tone information*;

In response, the Examiner argues that “Melody as defined, ‘it is series or arrangement of sounds,’ ‘a selection of musical scores,’ or ‘a series of tone patterns, which make a melody.’ Therefore, music scores or tone patterns make up a melody, which indeed, brings along tune information associated with it.” The Examiner cites to Lin et al. col. 3, lines 9-29 and col. 4,

lines 1-11 for support. These portions of Lin are reproduced below:

With reference now to FIG. 2 of the drawings, network operators can offer a musical ringing tone feature to mobile subscribers to allow mobile subscribers to ***select musical scores 55*** for the ringing tone of their Mobile Stations (MSs) 20, without the need for the mobile subscribers to program their MSs 20 themselves. In order to automatically program the MS 20 to ring with the music score 55 selection(s) of a mobile subscriber, ***ringing tone patterns 65 associated with the selected musical score(s) 55 can be downloaded to the MS 20***. When implemented on the MS 20, the ringing tone patterns 65 provide a musical ringing tone corresponding to the selected musical score 55, instead of the normal ringing tone.

In order to ***download the desired ringing tone patterns 65***, the mobile subscriber can either call the network operator to select the desired musical score 55 or access the network operator through an Internet 35, the latter being illustrated. For example, the mobile subscriber can access a web page 45 of the network operator from a stand-alone computer 21 or from the MS 20 that has either a laptop computer 21 attached to it, as is shown, or a computer 21 integrated with it. Col. 3, lines 9-29.

Once selected and confirmed, the network operator sends a message 50 to the HLR 26 associated with the MS 20, instructing the HLR 26 to ***download the selected musical score(s) 55*** to the MS 20 from the web page 45. As is shown, this message 50 could be sent from the web page 45 through the Internet 35. In response to the message 50, the HLR 26 ***retrieves the ringing tone pattern 65 associated with the selected musical scores(s) 55*** from a database 70 therein and downloads this ringing tone pattern 65 to the MS 20. Alternatively, the web page 45 itself could download the selected musical score(s) 55 to the MS 20. In this case, the musical score(s) 55 could be stored within the web page 45 or within a node (not shown) accessible to the web page 45. Col. 3, line 66 - col. 4, line 11. (emphasis added)

The Examiner's definition of melody appears to suggest that melody data must include tone information. However, as can be seen above, Lin et al. does not support the Examiner's "definition" of melody. In fact, the word melody does not even appear in Lin et al. In addition, the Examiner's overly broad definition is contrary to both Applicant's specification and claims and Lin et al.

Applicant's specification makes it clear that not all melody data will contain tone information. For example, page 2, lines 16-17 of the specification states "if said melody data contains no tone information." See also page 7, lines 25-28. Likewise, Lin et al. recognizes that tone patterns (items 65) are different from musical scores (item 55) because they are downloaded as separate items.

Lin et al. discloses downloading ringing tone data from an Internet. However, it does not disclose or suggest downloading melody information that contains tone information. Yoshino also fails to disclose download melody data that contains tone information.

Regarding the rejection of the remaining dependent claims, they should all be allowable at least based on their dependence from claims 1 or 8 for at least the same reasons.

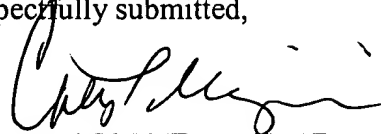
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

RESPONSE UNDER 37 C.F.R. §1.116  
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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